

STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND (State Bar No. 083013)
STEPHEN J. NEWMAN (State Bar No. 181570)
NANCY M. LEE (State Bar No. 232708)
2029 Century Park East, 16th Floor
Los Angeles, California 90067-3086
Telephone: 310-556-5800
Facsimile: 310-556-5959
lcalendar@stroock.com

Attorneys for Defendants
CHASE BANK USA, N.A.,
erroneously sued as CHASE
MANHATTAN BANK U.S.A.,
N.A., and JPMORGAN CHASE & CO.

Plaintiffs,

CHASE MANHATTAN BANK U.S.A.,
N.A., a Delaware corporation, CHASE
MANHATTAN BANK U.S.A., N.A.
d.b.a. CHASE BANK U.S.A., N.A.,
JPMORGAN CHASE & CO., a
Delaware corporation; and DOES 1
through 100, inclusive.

Defendants.

Case No. CV-07-4732 MJJ

THE HON. MARTIN J. JENKINS

**DEFENDANTS' MOTION FOR
LEAVE TO FILE STATEMENT OF
RECENT DECISION IN SUPPORT
OF MOTION TO DISMISS;
DECLARATION OF NANCY M.
LEE IN SUPPORT THEREOF**

[Local Rule 7-11]

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Civil Local Rule 7-11, Defendants Chase Bank USA, N.A., erroneously sued as Chase Manhattan Bank U.S.A., N.A. and JPMorgan Chase & Co., hereby move for leave to file a statement of recent decision (attached hereto) regarding the Memorandum & Order issued by Judge Marilyn Patel on March 4, 2008 in the matter David J. Lee et al. v. Capital One Bank, Case No. CV-07-4599 (MHP) (N.D. Cal. March 4, 2008) (the “Order”).

This Motion is made on grounds that good cause exists because the Order has bearing on the Defendants' Motion to Dismiss and the Court and the parties would be best served by allowing the Defendants to submit the statement of recent decision so that the relevant legal issues may be adequately addressed.

This Motion is based upon this Motion, the attached Memorandum of Points and Authorities and Declaration of Nancy M. Lee, the pleadings and records on file herein and on such other and further argument and evidence as may be presented.

Defendants' counsel was unable to reach Plaintiffs' counsel to discuss the filing of the statement of recent decision.

Dated: March 5, 2008

Respectfully submitted,

STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND
STEPHEN J. NEWMAN
NANCY M. LEE

By: /s/ Stephen J. Newman
Stephen J. Newman

Attorneys for Defendants
CHASE BANK USA, N.A., erroneously
sued as CHASE MANHATTAN BANK
U.S.A., N.A., and JPMORGAN CHASE
& CO.

MEMORANDUM OF POINTS AND AUTHORITIES

On March 4, 2008, Judge Marilyn Patel issued an order in the matter David J. Lee et al. v. Capital One Bank, Case No. CV-07-4599 (MHP) (N.D. Cal. March 4, 2008) (the “Capital One Order”), which has bearing on the issues relevant to the Motion to Dismiss currently pending in the instant action. Pursuant to Civil Local Rule 7-11, Defendants Chase Bank USA, N.A., erroneously sued as Chase Manhattan Bank U.S.A., N.A. and JPMorgan Chase & Co., hereby move for leave to file the statement of recent decision in Capital One attached as Exhibit A to the Declaration of Nancy M. Lee (“Lee Decl.”). Since the Capital One Order was recently issued, it was not available by the time the Motion to Dismiss was heard on January 29, 2008.

Good cause for the instant Motion exists. The Court and the parties would be best served by allowing the Defendants to submit the statement of recent decision so that the relevant legal issues may be adequately addressed. Accordingly, the Court should grant the instant Motion in its entirety.

Defendants' counsel sought out the consent of Plaintiffs' counsel to file the statement of recent decision but was unable to reach Plaintiffs' counsel. See Lee Decl., ¶ 3. For this reason, Defendants were unable to obtain a stipulation to file the statement of recent decision. Id.

Dated: March 5, 2008

Respectfully submitted,

STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND
STEPHEN J. NEWMAN
NANCY M. LEE

By: /s/ Stephen J. Newman
Stephen J. Newman

Attorneys for Defendants
CHASE BANK USA, N.A., erroneously
sued as CHASE MANHATTAN BANK
U.S.A., N.A., and JPMORGAN CHASE
& CO.

DECLARATION OF NANCY M. LEE

I, Nancy M. Lee, declare as follows:

1. I am admitted to practice before this Court and am an associate with Stroock & Stroock & Lavan LLP, counsel for Defendants Chase Bank USA, N.A., erroneously sued as Chase Manhattan Bank U.S.A., N.A. and JPMorgan Chase & Co. I submit this declaration in support of Defendants' Motion for Leave to File Statement of Recent Decision In Support Of Motion to Dismiss (the "Motion"). The statements set forth herein are true of my own personal knowledge, and, if called as a witness, I could and would competently testify thereto.

2. Attached hereto as Exhibit A is the Statement of Recent Decision in Support of Motion to Dismiss which Defendants seek to file pursuant to the Motion.

3. Pursuant to Civil Local Rule 7-11, I called counsel for Plaintiffs, Matthew Hale, regarding our intention to seek relief to file a statement of recent decision in connection with the March 4, 2008 order in the matter David J. Lee et al. v. Capital One Bank, Case No. CV-07-4599 (MHP). I have not received a response from Mr. Hale. Accordingly, I was not able to obtain a stipulation to file the statement of recent decision.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 5th day of March 2008 at Los Angeles, California.

Nancy M. Lee